Pet. App. 14a. Similarly, instead of asking whether the government's use of petitioner's jailhouse statements for their corroborative effect contributed to petitioner's verdict, the court of appeals abdicated its harmless-error responsibility and concluded simply that those witnesses' "credibility was for the jury to decide." *Id.* at 13a. The court of appeals' errors were not idle passing references.

Had the court of appeals employed the correct standard, it could not have found harmless error. The government disagrees, claiming that its witnesses already corroborated one another. *See* Br. in Opp. 19-20. It is telling, though, that the government can only identify three narrow circumstances in which its seven cooperating witnesses did so. Among those examples, one witness did not implicate petitioner and the other two contradicted one another on the supposed sequence of events in the first example (Tr. 197-202, 316-322, 382-389); the witnesses contradicted each other on the total quantity of methamphetamine purchased in the second example (Tr. 250-253, 556); and the witnesses in the third example contradicted one another on the only potentially incriminating aspect of the event (Tr. 241-242, 286-288, 497-506). None of this testimony involved petitioner's distribution of methamphetamine and no incriminating testimony was corroborated by phone records or address books.

Most importantly, the government itself relied on petitioner's statements in its closing arguments to address the credibility problems with its own case (Tr. 704, 732-734), yet the jury still discredited that case, returning only a verdict on a lesser-included charge (Tr. 739). In these circumstances, and where the erroneously admitted evidence is the petitioner's own confession—"probably the most probative and damaging evidence that can be admitted," *Arizona* v. *Fulminante*, 499 U.S. 279, 296 (1991) (quotation omitted)—the admission of petitioner's jailhouse statements could not have been harmless.

CONCLUSION

For the foregoing reasons, as well as those in the petition, the petition for writ of certiorari should be granted.

Respectfully submitted.

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